

Claimant contacted the respondent again by telephone in July 1995. Respondent later telephoned the claimant and sent him to work in mid-July 1995 for Wagner Enterprises in the caves of Kansas City, Missouri. On July 27, 1995 claimant was injured while working at Wagner Enterprises when a coworker attacked him with a broom handle. Immediately before the attack, the coworker had become angry when the claimant asked

him to help load a hopper with sugar. During the fight, claimant dislocated his right shoulder.

The Appeals Board finds the Kansas Workers Compensation Act is applicable. Although the record lacks detailed information concerning the conversations between claimant and respondent, based upon the evidence presented to date, the Appeals Board finds for preliminary hearing purposes that claimant telephoned the respondent in July 1995 to offer to return to work for the respondent. Thereafter, from its offices in Overland Park, Kansas, respondent accepted the offer and, therefore, acceptance is deemed to have occurred in the state of Kansas. Because acceptance of claimant's offer was the last act necessary to formulate the employment contract, the contract is considered to have been made in the state of Kansas, making the Kansas Workers Compensation Act applicable to this injury. See K.S.A. 44-506.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing order of Administrative Law Judge Robert H. Foerschler entered February 15, 1996, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of April 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert S. Halas, Independence, MO
Timothy J. Piatchek, Kansas City, MO
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director